

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

|                          |   |                       |
|--------------------------|---|-----------------------|
| KENEXA TECHNOLOGY, INC., | ) |                       |
|                          | ) |                       |
| Plaintiff,               | ) |                       |
|                          | ) |                       |
| v.                       | ) | C.A. No. 08-387 (SLR) |
|                          | ) |                       |
| TALEO CORPORATION,       | ) |                       |
|                          | ) |                       |
| Defendant.               | ) |                       |

**TALEO CORPORATION'S ANSWER TO  
KENEXA TECHNOLOGY, INC.'S COMPLAINT**

Defendant, Taleo Corporation ("Taleo"), responds to the numbered paragraphs of Kenexa Technology, Inc.'s ("Kenexa") Complaint and counterclaims as follows:

1. Upon information and belief, Taleo admits the allegations contained in paragraph 1 of the Complaint.
2. Taleo admits the allegations contained in paragraph 2 of the Complaint.
3. Taleo admits the allegations contained in paragraph 3 of the Complaint, except to the extent that they purport to limit the scope of this lawsuit to the listed causes of action.
4. Taleo admits the allegations contained in paragraph 4 of the Complaint.
5. Taleo admits the allegations contained in paragraph 5 of the Complaint.
6. Taleo admits that UCB, Inc. ("UCB") is an entity having a place of business at 1950 Lake Park Drive, Smyrna, Georgia 30080. Taleo is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 6 of the Complaint.

7. Taleo is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint.

8. Taleo denies the allegation contained in paragraph 8 of the Complaint.

9. Taleo is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.

10. Taleo is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint.

11. Taleo admits that UCB is a Taleo customer. Taleo denies the remaining allegations contained in paragraph 11 of the Complaint.

12. Taleo denies the allegations contained in paragraph 12 of the Complaint.

13. Taleo denies the allegations contained in paragraph 13 of the Complaint.

14. Taleo denies the allegations contained in paragraph 14 of the Complaint.

15. Taleo denies the allegations contained in paragraph 15 of the Complaint.

16. Taleo denies the allegations contained in paragraph 16 of the Complaint.

17. Taleo denies the allegations contained in paragraph 17 of the Complaint.

18. Taleo admits that Kenexa BrassRing, Inc. has sued Taleo and that Taleo is engaged in a lawsuit pending in this judicial district styled *Kenexa BrassRing, Inc. v. Taleo Corporation*, No. 07-521-SLR. Taleo is without knowledge or information sufficient to form a belief as to the truth of the allegation that Kenexa BrassRing, Inc. is Kenexa's wholly owned subsidiary. Taleo denies the allegation that it has infringed Kenexa BrassRing, Inc.'s patent rights.

19. Taleo denies the allegations contained in paragraph 19 of the Complaint.

20. Taleo denies the allegations contained in paragraph 20 of the Complaint.

21. Taleo denies the allegations contained in paragraph 21 of the Complaint.

22. Taleo denies the allegations contained in paragraph 22 of the Complaint.

23. Taleo denies the allegations contained in paragraph 23 of the Complaint.

24. Taleo denies the allegations contained in paragraph 24 of the Complaint.

25. Taleo repeats its responses to the allegations of paragraphs 1-24 of the Complaint.

26. Taleo denies the allegations contained in paragraph 26 of the Complaint.

27. Taleo denies the allegations contained in paragraph 27 of the Complaint.

28. Taleo denies the allegations contained in paragraph 28 of the Complaint.

29. Taleo denies the allegations contained in paragraph 29 of the Complaint.

30. Taleo denies the allegations contained in paragraph 30 of the Complaint.

31. Taleo repeats its responses to the allegations of paragraphs 1-30 of the Complaint.

32. Taleo denies the allegations contained in paragraph 32 of the Complaint.

33. Taleo denies the allegations contained in paragraph 33 of the Complaint.

34. Taleo denies the allegations contained in paragraph 34 of the Complaint.

35. Taleo denies the allegations contained in paragraph 35 of the Complaint.

36. Taleo repeats its responses to the allegations of paragraphs 1-35 of the Complaint.

37. Taleo denies the allegations contained in paragraph 37 of the Complaint.

38. Taleo denies the allegations contained in paragraph 38 of the Complaint.

39. Taleo denies the allegations contained in paragraph 39 of the Complaint.

40. Taleo denies the allegations contained in paragraph 40 of the Complaint.

41. Taleo repeats its responses to the allegations of paragraphs 1-40 of the Complaint.

42. Taleo denies the allegations contained in paragraph 42 of the Complaint.

43. Taleo denies the allegations contained in paragraph 43 of the Complaint.

44. The remainder of the Complaint outlines Kenexa's requested relief, which requires neither admission nor denial. Any allegation in the Complaint not expressly admitted is denied.

### **DEFENSES**

#### **First Defense**

1. Kenexa's claims are barred in whole or in part because Kenexa fails to state a claim upon which relief can be granted.

#### **Second Defense**

2. Kenexa's claims are barred in whole or in part by Kenexa's lack of standing.

#### **Third Defense**

3. Kenexa's claims are barred in whole or in part by the doctrine of justification and/or absolute right or privilege.

#### **Fourth Defense**

4. Kenexa's claims are barred in whole or in part by the doctrines of unclean hands and/or *in pari delicto*.

#### **Fifth Defense**

5. Kenexa's claims are barred in whole or in part because they fail to state with particularity the circumstances allegedly constituting unfair trade practices.

**Sixth Defense**

6. Kenexa's claims are barred in whole or in part because they fail to state with particularity the circumstances allegedly constituting fraud.

**Seventh Defense**

7. Kenexa's claims are barred in whole or in part by Kenexa's actual knowledge of the falsity of any alleged misrepresentation.

**Eighth Defense**

8. Kenexa's claims are barred in whole or in part by the doctrines of estoppel and/or waiver.

**Ninth Defense**

9. Kenexa's claims are barred in whole or in part by Kenexa's failure to mitigate damages.

**Tenth Defense**

10. Kenexa's claims are barred in whole or in part by the doctrines of proportionate responsibility and/or proportionate fault.

**Eleventh Defense**

11. Kenexa's claims are barred in whole or in part by the doctrines of offset and/or setoff.

**Prayer for Relief**

WHEREFORE, Taleo respectfully requests that the Court enter judgment dismissing Kenexa's Complaint with prejudice, awarding Taleo its reasonable expenses including attorneys' fees and costs incurred in this action, and granting to Taleo any additional relief that the Court deems appropriate and just.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Thomas C. Grimm*

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 23, 2008 I electronically filed the foregoing document, which will send notification to all registered participants.

I also certify that copies were caused to be served on July 23, 2008 upon the following in the manner indicated:

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